

Forty-eighth Legislature
Second Regular Session

COMMITTEE ON COMMERCE

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2483

(Reference to printed bill)

1 Page 7, line 6, after "REPRESENTATIVE" insert "SHALL NOTIFY THE DEPARTMENT OF
2 REVENUE AND"

3 Strike lines 26 through 29, insert "FOR THE PURPOSE OF THIS SECTION,
4 "CIGARETTE", "CIGARETTE DISTRIBUTOR" AND "RETAILER" HAVE THE SAME MEANINGS
5 PRESCRIBED IN SECTION 42-3001.

6 D. AN AGENT OF THE DEPARTMENT OF REVENUE WHO IS ALSO A LAW ENFORCEMENT
7 AGENT OR INVESTIGATOR MAY CONDUCT INSPECTIONS PURSUANT TO SECTION 41-2170.04,
8 SUBSECTION G.

9 E. THIS SECTION APPLIES BEGINNING AUGUST 1, 2009."

10 Page 8, between lines 5 and 6, insert:

11 "Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to
12 read:

13 42-2003. Authorized disclosure of confidential information

14 A. Confidential information relating to:

15 1. A taxpayer may be disclosed to the taxpayer, its successor in
16 interest or a designee of the taxpayer who is authorized in writing by the
17 taxpayer. A principal corporate officer of a parent corporation may execute
18 a written authorization for a controlled subsidiary.

19 2. A corporate taxpayer may be disclosed to any principal officer, any
20 person designated by a principal officer or any person designated in a
21 resolution by the corporate board of directors or other similar governing
22 body.

23 3. A partnership may be disclosed to any partner of the
24 partnership. This exception does not include disclosure of confidential
25 information of a particular partner unless otherwise authorized.

26 4. An estate may be disclosed to the personal representative of the
27 estate and to any heir, next of kin or beneficiary under the will of the
28 decedent if the department finds that the heir, next of kin or beneficiary
29 has a material interest which will be affected by the confidential
30 information.

1 5. A trust may be disclosed to the trustee or trustees, jointly or
2 separately, and to the grantor or any beneficiary of the trust if the
3 department finds that the grantor or beneficiary has a material interest
4 which will be affected by the confidential information.

5 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
6 to confidentiality either in writing or on the record in any administrative
7 or judicial proceeding.

8 7. The name and taxpayer identification numbers of persons issued
9 direct payment permits may be publicly disclosed.

10 B. Confidential information may be disclosed to:

11 1. Any employee of the department whose official duties involve tax
12 administration.

13 2. The office of the attorney general solely for its use in
14 preparation for, or in an investigation which may result in, any proceeding
15 involving tax administration before the department or any other agency or
16 board of this state, or before any grand jury or any state or federal court.

17 3. The department of liquor licenses and control for its use in
18 determining whether a spirituous liquor licensee has paid all transaction
19 privilege taxes and affiliated excise taxes incurred as a result of the sale
20 of spirituous liquor, as defined in section 4-101, at the licensed
21 establishment and imposed on the licensed establishments by this state and
22 its political subdivisions.

23 4. Other state tax officials whose official duties require the
24 disclosure for proper tax administration purposes if the information is
25 sought in connection with an investigation or any other proceeding conducted
26 by the official. Any disclosure is limited to information of a taxpayer who
27 is being investigated or who is a party to a proceeding conducted by the
28 official.

29 5. The following agencies, officials and organizations, if they grant
30 substantially similar privileges to the department for the type of
31 information being sought, pursuant to statute and a written agreement between
32 the department and the foreign country, agency, state, Indian tribe or
33 organization:

34 (a) The United States internal revenue service, alcohol and tobacco
35 tax and trade bureau of the United States treasury, United States bureau of

1 alcohol, tobacco, firearms and explosives of the United States department of
2 justice, United States drug enforcement agency and federal bureau of
3 investigation.

4 (b) A state tax official of another state.

5 (c) An organization of states, federation of tax administrators or
6 multistate tax commission that operates an information exchange for tax
7 administration purposes.

8 (d) An agency, official or organization of a foreign country with
9 responsibilities that are comparable to those listed in subdivision (a), (b)
10 or (c) of this paragraph.

11 (e) An agency, official or organization of an Indian tribal government
12 with responsibilities comparable to the responsibilities of the agencies,
13 officials or organizations identified in subdivision (a), (b) or (c) of this
14 paragraph.

15 6. The auditor general, in connection with any audit of the department
16 subject to the restrictions in section 42-2002, subsection D.

17 7. Any person to the extent necessary for effective tax administration
18 in connection with:

19 (a) The processing, storage, transmission, destruction and
20 reproduction of the information.

21 (b) The programming, maintenance, repair, testing and procurement of
22 equipment for purposes of tax administration.

23 8. The office of administrative hearings relating to taxes
24 administered by the department pursuant to section 42-1101, but the
25 department shall not disclose any confidential information:

26 (a) Regarding income tax, withholding tax or estate tax.

27 (b) On any tax issue relating to information associated with the
28 reporting of income tax, withholding tax or estate tax.

29 9. The United States treasury inspector general for tax administration
30 for the purpose of reporting a violation of internal revenue code section
31 7213A (26 United States Code section 7213A), unauthorized inspection of
32 returns or return information.

33 10. The financial management service of the United States treasury
34 department for use in the treasury offset program.

1 11. The United States treasury department or its authorized agent for
2 use in the state income tax levy program and in the electronic federal tax
3 payment system.

4 12. The department of commerce for its use in:

5 (a) Qualifying motion picture production companies for the tax
6 incentives provided for motion picture production under chapter 5 of this
7 title and sections 43-1075 and 43-1163.

8 (b) Fulfilling its annual reporting responsibility pursuant to section
9 41-1517, subsection T.

10 (c) Qualifying applicants for the motion picture infrastructure
11 project tax credits under sections 43-1075.01 and 43-1163.01.

12 13. A prosecutor for purposes of section 32-1164, subsection C.

13 14. THE STATE FIRE MARSHAL FOR USE IN DETERMINING COMPLIANCE WITH AND
14 ENFORCING TITLE 41, CHAPTER 16, ARTICLE 3.1.

15 C. Confidential information may be disclosed in any state or federal
16 judicial or administrative proceeding pertaining to tax administration
17 pursuant to the following conditions:

18 1. One or more of the following circumstances must apply:

19 (a) The taxpayer is a party to the proceeding.

20 (b) The proceeding arose out of, or in connection with, determining
21 the taxpayer's civil or criminal liability, or the collection of the
22 taxpayer's civil liability, with respect to any tax imposed under this title
23 or title 43.

24 (c) The treatment of an item reflected on the taxpayer's return is
25 directly related to the resolution of an issue in the proceeding.

26 (d) Return information directly relates to a transactional
27 relationship between a person who is a party to the proceeding and the
28 taxpayer and directly affects the resolution of an issue in the proceeding.

29 2. Confidential information may not be disclosed under this subsection
30 if the disclosure is prohibited by section 42-2002, subsection C or D.

31 D. Identity information may be disclosed for purposes of notifying
32 persons entitled to tax refunds if the department is unable to locate the
33 persons after reasonable effort.

34 E. The department, upon the request of any person, shall provide the
35 names and addresses of bingo licensees as defined in section 5-401, verify

1 whether or not a person has a privilege license and number, a distributor's
2 license and number or a withholding license and number or disclose the
3 information to be posted on the department's web site or otherwise publicly
4 accessible pursuant to section 42-1124, subsection F and section 42-3201,
5 subsection A.

6 F. A department employee, in connection with the official duties
7 relating to any audit, collection activity or civil or criminal
8 investigation, may disclose return information to the extent that disclosure
9 is necessary to obtain information which is not otherwise reasonably
10 available. These official duties include the correct determination of and
11 liability for tax, the amount to be collected or the enforcement of other
12 state tax revenue laws.

13 G. If an organization is exempt from this state's income tax as
14 provided in section 43-1201 for any taxable year, the name and address of the
15 organization and the application filed by the organization upon which the
16 department made its determination for exemption together with any papers
17 submitted in support of the application and any letter or document issued by
18 the department concerning the application are open to public inspection.

19 H. Confidential information relating to transaction privilege tax, use
20 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
21 be disclosed to any county, city or town tax official if the information
22 relates to a taxpayer who is or may be taxable by the county, city or
23 town. Any taxpayer information released by the department to the county,
24 city or town:

25 1. May only be used for internal purposes.
26 2. May not be disclosed to the public in any manner that does not
27 comply with confidentiality standards established by the department. The
28 county, city or town shall agree in writing with the department that any
29 release of confidential information that violates the confidentiality
30 standards adopted by the department will result in the immediate suspension
31 of any rights of the county, city or town to receive taxpayer information
32 under this subsection.

33 I. The department may disclose statistical information gathered from
34 confidential information if it does not disclose confidential information
35 attributable to any one taxpayer. In order to comply with the requirements

1 of section 42-5029, subsection A, paragraph 3, the department may disclose to
2 the state treasurer statistical information gathered from confidential
3 information, even if it discloses confidential information attributable to a
4 taxpayer.

5 J. The department may disclose the aggregate amounts of any tax
6 credit, tax deduction or tax exemption enacted after January 1, 1994.
7 Information subject to disclosure under this subsection shall not be
8 disclosed if a taxpayer demonstrates to the department that such information
9 would give an unfair advantage to competitors.

10 K. Except as provided in section 42-2002, subsection C, confidential
11 information, described in section 42-2001, paragraph 2, subdivision (a), item
12 (iii), may be disclosed to law enforcement agencies for law enforcement
13 purposes.

14 L. The department may provide transaction privilege tax license
15 information to property tax officials in a county for the purpose of
16 identification and verification of the tax status of commercial property.

17 M. The department may provide transaction privilege tax, luxury tax,
18 use tax, property tax and severance tax information to the ombudsman-citizens
19 aide pursuant to title 41, chapter 8, article 5.

20 N. Except as provided in section 42-2002, subsection D, a court may
21 order the department to disclose confidential information pertaining to a
22 party to an action. An order shall be made only upon a showing of good cause
23 and that the party seeking the information has made demand upon the taxpayer
24 for the information.

25 O. This section does not prohibit the disclosure by the department of
26 any information or documents submitted to the department by a bingo
27 licensee. Before disclosing the information the department shall obtain the
28 name and address of the person requesting the information.

29 P. If the department is required or permitted to disclose confidential
30 information, it may charge the person or agency requesting the information
31 for the reasonable cost of its services.

32 Q. Except as provided in section 42-2002, subsection D, the department
33 of revenue shall release confidential information as requested by the
34 department of economic security pursuant to section 42-1122 or 46-291.
35 Information disclosed under this subsection is limited to the same type of

1 information that the United States internal revenue service is authorized to
2 disclose under section 6103(1)(6) of the internal revenue code.

3 R. Except as provided in section 42-2002, subsection D, the department
4 of revenue shall release confidential information as requested by the courts
5 and clerks of the court pursuant to section 42-1122.

6 S. To comply with the requirements of section 42-5031, the department
7 may disclose to the state treasurer, to the county stadium district board of
8 directors and to any city or town tax official that is part of the county
9 stadium district confidential information attributable to a taxpayer's
10 business activity conducted in the county stadium district.

11 T. The department shall release confidential information as requested
12 by the attorney general for purposes of determining compliance with and
13 enforcing section 44-7101, the master settlement agreement referred to
14 therein and subsequent agreements to which the state is a party that amend or
15 implement the master settlement agreement. Information disclosed under this
16 subsection is limited to luxury tax information relating to tobacco
17 manufacturers, distributors, wholesalers and retailers and information
18 collected by the department pursuant to section 44-7101(2)(j).

19 U. For proceedings before the department, the office of administrative
20 hearings, the board of tax appeals or any state or federal court involving
21 penalties that were assessed against a return preparer or electronic return
22 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
23 information may be disclosed only before the judge or administrative law
24 judge adjudicating the proceeding, the parties to the proceeding and the
25 parties' representatives in the proceeding prior to its introduction into
26 evidence in the proceeding. The confidential information may be introduced
27 as evidence in the proceeding only if the taxpayer's name, the names of any
28 dependents listed on the return, all social security numbers, the taxpayer's
29 address, the taxpayer's signature and any attachments containing any of the
30 foregoing information are redacted and if either:

31 1. The treatment of an item reflected on such return is or may be
32 related to the resolution of an issue in the proceeding.

33 2. Such return or return information relates or may relate to a
34 transactional relationship between a person who is a party to the proceeding

1 and the taxpayer which directly affects the resolution of an issue in the
2 proceeding.

3 V. The department may disclose to the attorney general confidential
4 information received under section 44-7111 and requested by the attorney
5 general for purposes of determining compliance with and enforcing section
6 44-7111. The department and attorney general shall share with each other the
7 information received under section 44-7111, and may share the information
8 with other federal, state or local agencies only for the purposes of
9 enforcement of section 44-7101, section 44-7111 or corresponding laws of
10 other states."

11 Renumber to conform

12 Amend title to conform

and, as so amended, it do pass

RICH CRANDALL
Vice-Chairman

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